



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#7

In re Application of:

Carol A. Westbrook

Serial No. 07/784,222

Filed: October 28, 1991

For:

METHODS AND COMPOSITIONS
FOR THE DETECTION OF
CHROMOSOMAL ABBERATIONS

Group Art Unit: unknown

Examiner: L. Bennett

Attorney Docket: ARCD:010

PETITION TO VACATE A NOTICE OF ABANDONMENT
UNDER 37 C.F.R. §1.181

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

This Petition is being filed in response to the Notice of Abandonment dated March 9, 1993 issued in connection with the above-captioned application (a copy of which is enclosed herewith). Applicant respectfully requests that the Notice of Abandonment be vacated and that the subject application be returned to pending status.

As set forth in that Notice, the reason for abandonment was an alleged failure to respond to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, mailed April 15, 1992 (a copy of which is enclosed herewith).

Applicant sets forth the following facts with regard to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

1. 37 C.F.R. §1.821 provides that a Sequence Listing is required where the specification contains a recital of four or more amino acid residues or ten or more nucleotides.

2. The subject application as filed on October 28, 1991 does not contain in the specification, claims or Figures any recited nucleotide or amino acid residue sequence that requires the submission of a Sequence Listing.

3. In response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures of April 15, 1992, Dr. Shelley Fussey of the Austin Office of Arnold, White and Durkee (Attorneys of Record in this application) spoke with Examiner Lisa Bennett (703 308-3988) about that Notice on May 8, 1992. Ms. Bennett informed Dr. Fussey that she would review the file and contact Dr. Fussey or Dr. David Parker, Esq. if she found a Sequence Listing to be necessary.

4. Ms Bennett spoke with Dr. Fussey again on June 3, 1992 and told Dr. Fussey that, in her opinion, submission of a

Sequence Listing was not necessary because neither the specification nor claims contained a recited sequence in accordance with 37 C.F.R. §1.821. Ms. Bennett suggested that a letter be sent to the Applications Branch setting forth the above opinion and reasons in support thereof.

5. On August 6, 1992, a letter was sent to the Applications Branch from Thomas Northrup of the Chicago Office of Arnold, White & Durkee, which letter set forth the facts in paragraph 4, above (a copy of that letter is enclosed herewith).

6. A Declaration by Dr. Fussey in which Dr. Fussey attests to the above facts is enclosed herewith for your review.

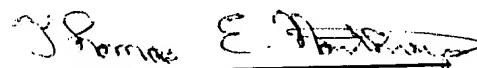
In view of the above, Applicant respectfully submits that 1) a response was filed to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures of April 15, 1992; 2) a Sequence Listing is not required in the subject application; and 3) the Notice of Abandonment is not well taken.

No petition fee has been provided pursuant to M.P.E.P §711.03(c), page 700-54.

The undersigned verifies that all statements made herein of my own knowledge are true, and that all statements made on

information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,




Thomas E. Northrup
Patent Agent
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Arnold, White & Durkee
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312/744-0090

CERTIFICATE OF MAILING

I hereby certify that this PETITION TO VACATE A NOTICE OF ABANDONMENT UNDER 37 C.F.R. §1.181 is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 7th day of May, 1993.

Thomas E. Northrup
Name of applicant, assignee or
Registered Representative


Signature

5-7-93
Date of Signature